IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 1600 of 2005

Between:

M/s. Medinova Diagnostic Services Limited, 6-3-652, Kautilya, Somajiguda Hyderabad. Rep. by its General Manager (Finance), N. Ravi Kumar, S/o. N.C. Lachanna, aged 44 Years.

..... PETITIONER

AND

The Regional Provident Fund Commissioner-II, Regional Provident Fund Commissioner (C & R), Regional Office, Barkathpura, Hyderabad - 27.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring that the revised demand notice bearing No. AP/HYD/CIRCLE 12 /Damages/AP/42252/CA/D cell/ 8297 dated 8th October, 2004 for Rs, 365521/- issued by the respondents and prohibitory order No. AP/42252 / PD Cell/2004 dated 10-11-2004 are illegal, arbitrary in nature against principles of natural justice and bad in law and set aside the same and direct the respondents to reopen the assessment and provide an opportunity of hearing the case of the petitioner herein.

Counsel for the Petitioner: MS.G.SUDHA

Counsel for the Respondent: MR.R.N.REDDY, SC for the respondent

The Court made the following:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.1600 OF 2005

ORDER :

This writ petition is filed challenging the proceedings dated 08-10-2004 passed by the respondent under Sections 7-Q and 14-B of The Employees' Provident Funds and Miscellaneous Provision Act, 1952 (for short, 'the Act') whereunder the petitioner was directed to pay a total sum of Rs.3,65,521/- towards interest and damages for belated remittance of Provident Fund dues.

Heard the learned Counsel for both the parties. At the outset, the learned Counsel for the respondent submits that against the impugned order an alternative remedy is available under Section 7-I of the Act by way of Appeal and without exhausting the said alternative remedy available under the Statute, the petitioner cannot maintain this writ petition.

Since admittedly the impugned order is appealable under Section 7-I of the Act, without expressing any opinion on merits, the Writ Petition is disposed of

granting leave and liberty to the petitioner to prefer an Appeal against the order dated 08-10-2004. If such Appeal is preferred within four weeks from today, the same shall be entertained and appropriate orders be passed in accordance with law. It is made clear that till the disposal of the said Appeal, the impugned order shall not be given effect to subject to the condition that the petitioner deposits half of the amount demanded under the impugned proceedings within a period of eight weeks from today.

The Writ Petition is accordingly disposed of. No costs.

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03rd February, 2005.

Note:- CC by 07/02/2005.

(B/O)

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To

1.The Regional Provident Fund Commissioner-II, Regional Provident Fund Commissioner (C & R), Regional Office, Barkathpura, Hyderabad - 27.

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